

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Eric Goldstein, Matt Sudol, and Bonnie
Zelazek, individually and as representatives
of a class of similarly situated persons, and on
behalf of the Mutual of America Life
Insurance Company Savings Plan,

Plaintiffs,

v.

Mutual of America Life Insurance Company,
the Mutual of America Investment Manager
Committee, and John and Jane Does 1-20,

Defendants.

Case No. 1:22-cv-7862-GHW-OTW

CLASS ACTION

**Declaration of Brock J. Specht in Support of
Plaintiffs' Motion for Final Approval of Class Action Settlement**

I, Brock J. Specht, declare and state as follows:

1. I am a partner at Nichols Kaster, PLLP and am one of Plaintiffs' attorneys of record.

I submit this declaration in support of Plaintiffs' Motion for Final Approval of the Class Action Settlement.

2. For the reasons stated in my previous declarations in support of Plaintiffs' Motion for Preliminary Approval of the Class Action Settlement, *ECF No. 57*, I believe that the Settlement is fair, reasonable, and adequate.

Approval by the Independent Fiduciary

3. Pursuant to Prohibited Transaction Exemption 2003-39, as amended, 75 Fed. Reg. 33,830 (June 15, 2010) ("PTE 2003-39") and Paragraph 2.2 of the Settlement Agreement, *ECF No. 57-1*, an Independent Fiduciary (Newport Trust Company) reviewed the Settlement on the

Plan's behalf. As part of this review, the Independent Fiduciary personally discussed the Settlement with me (and separately with defense counsel) by telephone, among other things, and subsequently issued a report after the review.

4. A true and correct copy of the Independent Fiduciary's report is attached as **Exhibit 1**. In the report, the Independent Fiduciary affirmed, among other things, that:

- (i) the Settlement terms, the \$2,750,000 Settlement amount and non-monetary relief provided for in the Settlement, and the amount of any attorneys' fee award or any other sums to be paid from the recovery, are reasonable in light of the Plan's likelihood of full recovery, the risks and costs of litigation, and the value of claims foregone;
- (ii) the scope of the release of claims is reasonable and is consistent with the release of other ERISA settlements that the Independent Fiduciary has reviewed in the past year.

Id. at 2.

5. Accordingly, the Independent Fiduciary determined that "the Plan should not object to the Settlement or any portion thereof, including but not limited to the requested attorneys' fees and costs" and "authorize[d] the Plan's participation in the Settlement." *Id.* at 3.

Reaction of the Class to the Settlement

6. The reaction of the Class to the Settlement also has been favorable. In its Order preliminarily approving the Settlement, this Court directed that Notice of the Settlement be provided to Class Members. *ECF No. 63* ¶ 9. The Settlement Administrator disseminated mail and email notice on July 6, 2023. *Declaration of Bryn Bridley on Notice and Settlement Administration*, ¶¶ 7, 10. The Notice program was highly effective, with a 99.11% success rate for mailed Notice,

and a 95.39% success rate for emailed Notice. *Id.* ¶¶ 9-10. Under the Preliminary Approval Order, the period to object to the Settlement ended September 6, 2023. *See ECF No. 63* ¶ 11. As of the date of this declaration, Class Counsel have not received or been made aware of any objections to the Settlement. Similarly, the Settlement Administrator did not receive and was not made aware of any objections from the more than 2,500 Class Members who were sent a Notice of Settlement. *Id.* ¶ 13.

Under 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 20, 2023

s/ Brock J. Specht
Brock J. Specht